IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1258 of 2007
To
FIRST APPEAL No. 1269 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SPECIAL LAQ OFFICER & 1 - Appellant(s)
Versus
PATEL SHIVABHAI NAGARBHAI - Defendant(s)

==========

Appearance :
MR SUNIT S SHAH GP WITH MR HH PARIKH AGP for Appellant(s) : 1 - 2.
MR JAYESH M PATEL for Defendant(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 28/03/2007

ORAL JUDGMENT

1. In all the matters the State has preferred the appeal against the judgment and the award of the reference court dated 15.10.2005 whereby the additional amount of compensation is fixed at Rs.27.40 ps. for the land under acquisition and the amount of solatium, interest at the rate of 9% for the first year and 15% for the subsequent year is ordered to be paid.

2. Heard Mr.Sunit Shah with Mr.Parikh and Mr.Jayesh M. Patel for the respondent.

3. It appears that the learned Judge while deciding the reference has relied upon the earlier decision for awarding the compensation under the Land Acquisition Act for the land under same acquisition proceedings at the rate of Rs.20/- per sq.mtr. for non-irrigated land which came to be decided by the reference court in Land Acquisition No.484/98 to 499/98 decided on 5.8.2000. The reference court has

also taken into consideration the confirmation of the earlier decision dated 5.8.2000 in above referred land reference No.484/98 and others by this Court in First Appeal No.3845/01 to 3860/01 decided on 8.10.2001

4. As such in view of the earlier decision of the Division Bench of this Court dated 8.10.2001 in First Appeal No.3845/01 to 3860/01, the awarding of the compensation by fixation of the market value upto Rs.20/- in any case does not deserve to be upset by this Court and the reason is that for the land of very village such an amount of market value was fixed and the same is earlier confirmed by this Court.

5. Mr. Shah, learned Government Pleader with Mr. Parikh, learned Asst. Govt. Pleader, contended inter alia that in the present case the reference court has not taken into consideration the deposition of the Dy. Engineer as well as of the Dy. Mamlatdar and, therefore, it was submitted that amount on the same line could not have been awarded by the reference court. If the said contention is examined read with

the perusal of the observations made by the reference court in the judgment in para 19, it appears that the deposition is vague as anything. It does not transpire that the market value could be less than Rs.20/- even if the deposition is considered. Therefore, in my view no departure from the earlier order of the Division Bench dated 8.10.2001 deserves to be made in the present case.

6. It further appears that as the valuation of Rs.20/- per sq.mtr. which came to be confirmed was for the land pertaining to the notification of 1991 under section 4 of the Land Acquisition Act (hereinafter referred to as the Act) and the same is made as a basis by the reference court. However in the present case as the notification under section 4 of the Act was of 27.8.1998, the reference court has considered the appreciation at the rate of 10% for every year after 1991 and,therefore, the value of the land in question as on the date of the notification under section 4 of the Act, is fixed at Rs.34/- per sq.mtr. Even otherwise also the appreciation treated at the rate of 10% per year appears to be

reasonable.

7. No other contention is raised on behalf of the appellant-State.

8. In view of the above, appeal fails. Hence the same is dismissed. Decree accordingly.

[Jayant Patel, J.]

//smita//